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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

1875.1990000

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Application Number

10/080,671

Filed

February 25, 2002

First Named Inventor

Charles Edward ANDERSON, IV

Art Unit

2141

Examiner

Chirag R. Patel

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

applicant/inventor.

assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

attorney or agent of record.

Registration number 36,013

Signature

Robert Sokohl

Typed or printed name

(202) 371-2600

Telephone number

attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____

5/5/03

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

*Total of 1 forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	Confirmation No.: 8173
Charles Edward ANDERSON, IV	Art Unit: 2141
Appl. No.: 10/080,671	Examiner: Chirag R. Patel
Filed: February 25, 2002	Atty. Docket No.: 1875.1990000
For: System, Method And Computer Program Product For Selectively Caching Domain Name System Information On A Network Gateway	

Arguments to Accompany the Pre-Appeal Brief Request for Review

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Mail Stop: AF

Sir:

Applicant hereby submits the following Arguments, in five (5) or less total pages, as attachment to the Pre-Appeal Brief Request for Review (Form PTO/SB/33). A Notice of Appeal is concurrently filed.

Arguments

Applicant's arguments in the Reply Under 37 C.F.R. § 1.116, filed on October 31, 2007 in response to the Final Office Action mailed October 25, 2007, were not properly considered or responded to by the Examiner. The Examiner's response was legally and factually deficient because the art fails to disclose a system, method, or computer program product for searching application data files in memory to identify frequently accessed domain names.

The Examiner rejected claims 1, 4, 5, 7-9, 22-25, 27-29, 39, 40, 42-45, 48, and 50 under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent No. 6,385,693 to Gerszberg et al. ("Gerszberg"). Applicant respectfully traverses.

The Examiner alleges that Gerszberg discloses the step of "searching files in [a] memory to identify [a] frequently accessed domain names ... wherein the files in the

memory comprise application data files that hold frequently accessed domain names.”

Applicant explains in his application that:

[0099] Once executed, the CPE search application searches one or more files on the computer system 202a to identify frequently accessed domain names, as shown at step 804. In an embodiment, the CPE application searches one or more files on the computer system 202a that are known to hold frequently used domain names. For example, the CPE application may search files associated with a Web browser, such as files that includes the domain names of favorite user Web sites, or with an electronic mail application, such as a file that identifies the domain name of one or more e-mail host data servers. Preferably, each of the files that is scanned has a commonly known or ascertainable format that is fixed over time.

Independent claims 1, 22, and 39 each recite the aforementioned feature of searching files in memory, where the files comprise application data files, to identify frequently accessed domain names. The Examiner cites to column 11, lines 10-20 and column 2, lines 58-64 of Gerszberg to support the rejection. (Final Office Action of January 8, 2008, pp. 4 and 5). However, the aforementioned sections of Gerszberg do not teach or suggest “searching files in [a] memory to identify [a] frequently accessed domain names ... wherein the files in the memory comprise **application data files** that hold frequently accessed domain names.”

Gerszberg discloses caching frequently requested information by users, as well as pushing information to the cache, the information including telephone directory information, advertisements, movies on demand, and billing information. (Gerszberg, col. 11, ll. 10-20). There is simply no correlation between this section of Gerszberg and claims 1, 22, and 39. Gerszberg does not disclose any applications running at a customer premises equipment, nor searching any application data files. Moreover, the

aforementioned information in Gerszberg is not “frequently accessed domain names,” as recited in claims 1, 22, and 39.

The network server platform (“NSP”) of Gerszberg merely acts to intercept URL requests by a web browser running on a client system, and nowhere are any “application data files,” as recited in claims 1, 22, and 39, searched in order to “identify frequently used domain names.”

Likewise, the Examiner’s citation to Gerszberg at column 2, lines 58-64 does not support the rejection. Again, the Gerszberg reference simply lacks any discussion of application data files, and accordingly lacks any discussion of searching the application data files to identify frequently accessed domain names. The aforementioned section of Gerszberg simply discloses the downloading of frequently accessed data to a “close location such as the network server platform [(NSP)].” (Gerszberg, col. 2, ll. 58-64).

Accordingly, Applicant respectfully requests that the rejection of independent claims 1, 22, and 39 under 35 U.S.C. § 102(e) be reconsidered and withdrawn. Dependent claims 4, 5, 7-9, and 45; 23-25, 27-29, and 47; and 40, 42-44, and 50 are also not anticipated by Gerszberg for at least the same reasons as independent claims 1, 22, and 39, from which they respectively depend, and further in view of their own respective features. Accordingly, Applicant respectfully requests that the rejection of claims 4, 5, 7-9, 23-25, 27-29, 40, 42-45, 48, and 50 under 35 U.S.C. § 102(e) be reconsidered and withdrawn.

The Examiner has rejected claims 10, 13, 14, 16-21, 30-33, 35-38, 46, 47, and 49 under 35 U.S.C. § 103(a) as allegedly being obvious over Gerszberg in view of U.S. Patent No. 6,016,512 to Huitema (“Huitema”). The Examiner has additionally rejected claims 2 and 3 under 35 U.S.C. § 103(a) as allegedly being obvious over Gerszberg in

view of U.S. Patent Application No. 2002/0126812 to Majewski et al. (“Majewski”). Furthermore, the Examiner has rejected claims 6, 26, and 41 under 35 U.S.C. § 103(a) as allegedly being obvious over Gerszberg in view of U.S. Patent Application No. 2002/0120783 to Evgey (“Evgey”). The Examiner has also rejected claims 11 and 12 under 35 U.S.C. § 103(a) as allegedly being obvious over Gerszberg in view of Huitema and further in view of Majewski. Finally, the Examiner has rejected claims 15 and 34 as allegedly being obvious over Gerszberg in view of Huitema and further in view of Evgey.

Independent claims 10, 21, and 30, in a manner similar to independent claims 1, 22, and 39, recite “searching files in [a] memory to identify [a] frequently accessed domain names ... wherein the files in the memory comprise application data files that hold frequently accessed domain names.” As discussed above with reference to claims 1, 22, and 39, Gerszberg does not teach the aforementioned features of claims 10, 21, 30. Huitema, Majewski, and Evgey do not supply the missing teaching with regard to claims 10, 21, and 30, nor with regard to claims 1, 22, and 39, nor are the references used by the Examiner in formulating the rejection with regard to the aforementioned features. Accordingly, Applicant respectfully requests that the rejection of independent claims 10, 21, and 30 under 35 U.S.C. § 103(a) be reconsidered and withdrawn.

Dependent claims 13, 14, 16-20, 31-33, 35-38, 46, 47, and 49 are also not rendered obvious by the combination of Gerszberg and Huitema for at least the same reasons as independent claims 10, 21, and 30 from which they depend, and further in view of their own respective features. Dependent claims 2 and 3 are also not rendered obvious by the combination of Gerszberg and Majewski for at least the same reasons as independent claim 1 from which they depend, and further in view of their own respective

features. Dependent claims 6, 26, and 41 are also not rendered obvious by the combination of Gerszberg and Evgey for at least the same reasons as independent claims 1, 22, and 39 from which they depend, and further in view of their own respective features. Dependent claims 11 and 12 are also not rendered obvious by the combination of Gerszberg, Huitema, and Majewski for at least the same reasons as independent claim 10 from which they depend, and further in view of their own respective features. Dependent claims 15 and 34 are also not rendered obvious by the combination of Gerszberg, Huitema, and Evgey for at least the same reasons as independent claims 10 and 30 from which they depend, and further in view of their own respective features. Accordingly, Applicant respectfully requests that the rejection of claims 13, 14, 16-20, 31-33, 35-38, 46, 47, and 49; 2 and 3; 6, 26, and 41; 11 and 12; and 15 and 34 under 35 U.S.C. § 103(a) be reconsidered and withdrawn.

The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



Robert Sokohl
Attorney for Applicant
Registration No. 36,013

Date: 5/5/08

1100 New York Avenue, N.W.
Washington, D.C. 20005-3934
(202) 371-2600